

Practitioner's Docket No. 2509-980383**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE** In re application of:

Serial No.: 09 / 040,161 Group No.: 1623
 Filed: 3/17/98
 For: "Method for Examiner: R. Gitomer
 Preparing Cell ..."

 Patent No.: Issue date:

**NOTE: Preferably also insert inventor's name and invention title.*

Assistant Commissioner for Patents
 Washington, D.C. 20231

TERMINAL DISCLAIMER (37 C.F.R. § 1.137(a), (c) and § 1.321(a), (b))**IDENTIFICATION OF PERSON(S) MAKING THIS DISCLAIMER**I, Paul I. Kornblith, M.D.

(type or print names of all inventors or assigns or name of attorney signing disclaimer)

represent that I am:

(a)

- an inventor of this invention.
- an assignee of this invention.

WARNING: "If the patent or patent application is assigned to an organization, such as a corporation, partnership, university, Government agency or similar entity, and the disclaimer is signed by the assignee, the assignee must comply with § 3.73(b)." Notice of Oct. 15, 1993, 1156 O.G. 54-61 at 56.

- a representative authorized to sign on behalf of the assignee for this invention.

WARNING: See the above "WARNING".

- the attorney of record for this invention.

NOTE: The rules "permit an attorney or agent of record to sign a terminal disclaimer without the need to comply with § 3.73(b)." Notice of Oct. 15, 1993, 1156 O.G. 54-61, at 56.

and

(b) The extent of interest in this invention for which this disclaimer is being made is in:

- the whole of this invention.
- a sectional interest in this invention as follows
(here state the exact interest of disclaimant):

IDENTITY OF ASSIGNEE AND TITLE OF DISCLAIMANT
(if applicable)

The assignee is

Name of assignee Precision Therapeutics, Inc.
Address of assignee 3636 Boulevard of the Allies
Pittsburgh, PA 15213

Title of disclaimant authorized
to sign on behalf of assignee President

RECORDAL OF ASSIGNMENT IN PTO
(if applicable)

- The assignment was recorded on 10-3-98
Reel 8163
Frame 977
- Authorization for recordal of the assignment is separately attached.
 A separate "ASSIGNMENT (DOCUMENT) COVER SHEET" or
 FORM PTO 1595 is also attached.

ESTABLISHING RIGHT OF ASSIGNEE TO TAKE ACTION
(if applicable)

- Attached is a "STATEMENT UNDER 3.73(b)," establishing the right of the assignee to take action in this case.

DISCLAIMER

A. Patent Term (37 C.F.R. §§ 1.321(a) and (b))

Disclaimer is hereby made for:

- all that portion of the term of any patent to be issued on this application
or

the term of this patent
subsequent to July 12 2016

B. Claims (37 C.F.R. § 1.321(a))

Disclaimer is hereby made for the following claims of this patent:

Claims _____

(Terminal Disclaimer [14-5]—page 2 of 3)

**EXTENSION OF DISCLAIMER
TO SUBSEQUENT 35 U.S.C. § 120 APPLICATIONS**

(complete the following item, if applicable)

Because this terminal disclaimer accompanies a petition to revive:

- an application filed before June 8, 1995 that is
 - abandoned
(37 C.F.R. §§ 1.137(a) and (c)),
 - abandoned for failure to pay the issue fee
(37 C.F.R. §§ 1.316(b) and (d)),
 - a design application,

this disclaimer also applies to any patent granted on any continuing application entitled, under 35 U.S.C. § 120, to the benefit of the filing date of this application for which revival is sought.

FEE STATUS (37 C.F.R. § 1.20(d))

- | | |
|---|--------------|
| <input type="checkbox"/> Other than a small entity | fee \$110.00 |
| <input checked="" type="checkbox"/> Small entity | fee \$55.00 |
| <input type="checkbox"/> A statement is attached. | |
| <input checked="" type="checkbox"/> A statement was already filed on <u>9-30-96</u> | |

FEE PAYMENT

- Attached is a check in the sum of \$.55 _____.
 Charge Account 23-0650 _____ for any fee deficiency.
 Charge Deposit Account _____ the sum of \$ _____
and for any fee deficiency that may be due.

A duplicate of this disclaimer is attached.

Signature of disclaimant Paul L. Kornblith, M.D.

SIGNATURE OF PRACTITIONER

Reg. No.

(type or print name of practitioner)

Tel. No. ()

P.O. Address

Customer No.:

(Terminal Disclaimer [14-5]—page 3 of 3)

The PTO did not receive the following listed item(s) check for \$55.00

SUBJECT: DECISION ON TERMINAL DISCLAIMERS INFORMAL FORM

DATE: 10-15-98

APPL. S.N.: 081040,61

TO EXAMINER: J.G.Tomer

ART UNIT: 1623

M. MINT GOMBER ROOM 1E18

MAILROOM DATE 9-8-98

AFTER FINAL YES NO NUMBER OF T.D(S). FILED

INSTRUCTIONS: I have reviewed the submitted T.D. with the results as set forth below. If you agree, please use the appropriate form paragraphs identified by this informal memo in your next office action to notify applicant about the T.D. If you disagree with my analysis or have questions at all about the acceptability of the T.D., please see me or our Special Program Examiner. THIS MEMO IS AN INFORMAL, INTERNAL MEMO ONLY. IT MUST NOT BE MAILED TO APPLICANT, NOR SHOULD A COPY BE IN LEFT IN FILE.

The T.D. is PROPER and has been recorded. (See 14.23).

The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below. (See 14.24).

The recording fee of \$_____ has not been submitted nor is there any pre authorization in the application file to charge to a deposit account. (See 14.26.07)

Application Examiner has not processed T.D. fee. (See fee authorization).

The T.D. does not satisfy Rule 321(b)(3) in that the person who has signed the T.D. has not stated his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent. (See 14.26 and 14.26.01).

The T.D. lacks the enforceable only during the common ownership clause needed to overcome a double patenting rejection, Rule 321(c). (See 14.27, 14.27.01).

It is directed to a particular claims(s), which is not acceptable since "the disclaimer must be of a terminal portion of the term of the entire patent to be granted". MPEP 1490. (See 14.26, 14.26.02).

The person who signed the terminal disclaimer:

has failed to state his/her capacity to sign for the business entity. (See 14.28).

is not recognized as an officer of the assignee, (See 14.29 and possibly 14.29.01).

No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame specified as to where such evidence is recorded in the office. 37 CFR 3.73(b). (See 1140 O.G. 72). **NOTE:** This documentary evidence or the specifying of the reel and frame may be found in the T.D. or in a separate paper submitted by applicant. (See 14.30).

No "statement" specifying that the evidentiary documents have been reviewed and that, to the best of the assignee's knowledge and belief the title is in the assignee seeking to take action. 37 CFR 3.73(b). (See 1140 O.G. 72) (See 14.31).

The T.D. is not signed. (See 14.26, 14.26.3). or 14.26.03 if TD is not signed by all the owners.

Attorney not of record in oath/decl. or a separate paper filed appointing a new or associate attorney. (See 14.29.01).

The serial number of the application (or the number of the patent) which forms the basis for the double patenting is missing or incorrect. (See 14.32).

The serial number of this application (or the number of the patent in reexam or reissue case(s) being disclaimed is missing or incorrect. (See 14.26, 14.26.04 or 14.26.05).

The period disclaimed is incorrect or not specified. (See 14.27, 14.27.2 or 14.27.3)(For Samples 14.27.04 and 14.27.05)

Other: _____

Suggestion to request refund of \$ _____. (See 14.35, 14.36).

EXAMINER NOTE: IF APPLICATION IS IN CONDITION FOR ALLOWANCE ANY OF THE ABOVE INFORMALITIES MAY BE FAXED IN TO THE GROUP

FOR SAMPLE TERMINAL DISCLAIMERS AND CERTIFICATES:

- Sample of a TD over a pending application and assignee Certificate (See 14.37).
- Sample of a TD over a prior patent and assignee Certificate (See 14.38).
- Sample Assignee Certificate under 37 CFR 3.73 (b) (See 14.39)